

AMIGO MINING, INC.

IBLA 82-818

Decided November 19, 1982

Appeal from decision of the Colorado State Office, Bureau of Land Management, rejecting filing, for record, of copies of notices of location for 24 mining claims. C MC 190812.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Location -- Words and Phrases

"Date of Location." Under Colorado State law, as applied by 43 CFR 3833.0-5(h), the date of location of an unpatented mining claim in Colorado is the date specified in the location certificate. Where the claimant fails to file a copy of the official record of the notice of location of this claim with BLM within 90 days of this date, BLM properly rejects the filing, notwithstanding allegations that the actual date of location was different than the date specified in the location certificate.

APPEARANCES: Toby Michael for appellant, Amigo Mining, Inc. 1/

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Amigo Mining, Inc., has appealed the March 24, 1982, decision of the Colorado State Office, Bureau of Land Management (BLM), rejecting the filing of record copies of notices of location for 24 unpatented mining claims, the FHC Nos. 189A, 367A, 416A, and 461 through 481. We affirm.

1/ We presume that Amigo Mining, Inc., has an interest in these claims and, therefore, has standing to appeal, and that Toby Michael is either an officer or full-time employee of Amigo Mining, Inc., and, therefore, may practice before the Department in connection with its appeal. 43 CFR 1.3(b)(3).

Appellant filed copies of these notices with BLM on February 25, 1982. The notices each indicated that the claims were located on January 4 or 5, 1981. Since more than 90 days had passed between the dates of location and the date of filing the copies of notices of location with BLM, it rejected the copies as late, citing 43 CFR 3833.1-2(b).

Appellant explains that the claims were actually located on the ground on January 4 and 5, 1982, but that the individual who prepared the notices of location inadvertently entered the year "1981" instead of "1982." Thus, appellant maintains, copies of the notices of location were filed with BLM within 90 days of January 4 and 5, 1982, the dates of location of the claims, and BLM should not have rejected these copies.

[1] Under 43 CFR 3833.1-2(b), the holder of an unpatented mining claim located after October 21, 1976, is required to file a copy of the official record of the notice of location of the claim within 90 days after the "date of location" of that claim. Under 43 CFR 3833.0-5(h), the "date of location" means the date determined by State law in the local jurisdiction where the claim is situated. The governing law here is Colorado State law.

Under section 34-43-112(1) of the Colorado Revised Statutes (1973)

[t]he discoverer of a placer claim, within thirty days from the date of discovery, shall record his claim in the office of the recorder of the county in which said claim is situated by a location certificate, which shall contain:

- (a) The name of the claim, designating it as a placer claim;
- (b) The name of the locator;
- (c) The date of location;
- (d) The number of acres or feet claimed; and
- (e) A description of the claim by such reference to natural objects or permanent monuments as shall identify the claim. [Emphasis added.]

Thus, under Colorado law, the date on the location certificate of a mining claim is the date of location. Accord, Mrs. George G. Wagner, 63 IBLA 146 (1982) (holding that the date on the location certificate of a lode claim is the date of location under Colorado law).

Therefore, under 43 CFR 3833.1-2, copies of the notices of location must be filed with BLM within 90 days after the date on the location certificate, or BLM properly rejects them, notwithstanding allegations that the true date of location is different. Mrs. George G. Wagner, supra, and cases cited. Appellant did not file copies of the notices with BLM until more than a year after January 4 and 5, 1981, the date on the location certificates, and, accordingly, BLM properly rejected these filings.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Will A. Irwin
Administrative Judge

